

AMENDED IN ASSEMBLY JULY 2, 2008

AMENDED IN ASSEMBLY JUNE 10, 2008

AMENDED IN SENATE APRIL 10, 2007

**SENATE BILL**

**No. 1016**

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**Introduced by Senator Wiggins**

February 23, 2007

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An act to amend Sections ~~40181~~, 40183, 40184, 41780, 41783, 41820.6, 41821, 41850, 42921, and 42926 of, to amend the headings of Article 4 (commencing with Section 41825) and Article 5 (commencing with Section 41850) of Chapter 7 of Part 2 of Division 30 of, to add Sections 40127, 40144, 40150.1, 41780.05, 42921.5, and 42927 to, and to repeal and add Section 41825 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1016, as amended, Wiggins. Diversion: compliance: per capita disposal rate.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. Those entities are required to divert, from disposal or transformation, 50% of the solid waste through source reduction, recycling, and composting subject to the element, except as specified. A city, county, or regional agency is required to submit an annual report to the board summarizing its progress in reducing solid waste. Existing law requires the board to review, at least once every 2 years, a jurisdiction's source reduction and

recycling element and household hazardous waste element. The board is required to issue an order of compliance if the board finds that a jurisdiction has failed to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. If, after issuing an order of compliance, the board finds the city, county, or regional agency has failed to make a good faith effort to implement those elements, the board is authorized to impose administrative civil penalties upon the city, county, or regional agency.

This bill would define the terms “diversion program,” “jurisdiction,” and “multicounty regional agency,” for purposes of the act and would revise the definitions of the terms “rural city” and “rural county.” The bill would delete the condition that the solid waste subject to source reduction, recycling, and composting under these provisions, be diverted from landfill disposal or transformation.

The bill would repeal the board’s existing 2-year process and instead require the board to make a finding whether each jurisdiction was in compliance with the act’s diversion requirements for calendar year 2006 and to review a jurisdiction’s compliance with those diversion requirements in accordance with a specified schedule, which would be conditioned upon the board finding that the jurisdiction is in compliance with those requirements or has made a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

The bill would require the board to issue an order of compliance if the board finds that the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. The board would be required to comply with certain requirements, in making this determination.

The bill would revise the information required to be included in the jurisdiction’s annual report to the board and would require the report to be submitted to the board electronically. The bill would make conforming changes regarding the compliance order and related enforcement provisions. The bill would impose a state-mandated local program by imposing new duties upon local agencies.

(2) Existing law requires each state agency, as defined, to develop and adopt, in consultation with the board, an integrated waste management plan. Each state agency and large state facility is required to divert at least 50% of the solid waste generated by the state agency

or large state facility from landfill disposal or transformation facilities. “State agency” is defined, for purposes of these requirements, to include the California Community Colleges.

This bill would require the board to determine if a state agency or large state facility is in compliance with the 50% diversion requirement by comparing the annual per capita disposal rate of the state agency or large state facility with the per capita disposal rate that ~~the agency or facility would be necessary to comply with much. The~~ *the 50% diversion requirement. The* board would be authorized to consider an agency’s or facility’s per capita disposal rate as a factor in determining whether the agency or facility is adequately implementing its integrated waste management plan.

The bill would require a community college district to expend the revenues derived from the sale of recyclable materials for the purposes of offsetting recycling program costs and to expend all cost savings that result from implementation of the district’s integrated waste management plan to fund the continued implementation of the plan. A community college district would also be required to expend the revenues and cost savings to offset recycling program costs incurred from the initial date when the community college district became subject to these requirements. A community college district would be required to provide information to the board at least annually, on the quantities of recyclable materials collected for recycling, according to a schedule determined by the board and the district. The bill would impose a state-mandated local program by imposing new duties upon community colleges.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 40127 is added to the Public Resources
- 2 Code, to read:
- 3 40127. “Diversion program” means a program in the source
- 4 reduction and recycling element of a jurisdiction’s integrated waste
- 5 management plan, specified in Chapter 2 (commencing with

1 Section 41000) of, or Chapter 3 (commencing with Section 41300)  
2 of, Part 2 and that has the purpose of diverting solid waste from  
3 landfill disposal or transformation through source reduction,  
4 recycling, and composting activities. “Diversion program”  
5 additionally includes any amendments, revisions, or updates to the  
6 element, and any programs set forth in a time extension, alternative  
7 requirement, or compliance order approved by the board pursuant  
8 to Part 2 (commencing with Section 40900).

9 SEC. 2. Section 40144 is added to the Public Resources Code,  
10 to read:

11 40144. “Jurisdiction” means a city, county, or regional agency  
12 that is approved by the board pursuant to Section 40975.

13 SEC. 3. Section 40150.1 is added to the Public Resources Code,  
14 to read:

15 40150.1. “Multicounty regional agency” means a regional  
16 agency, as defined in Section 40181, that includes all of the  
17 jurisdictions that are located in at least two or more rural counties.

18 ~~SEC. 4. Section 40181 of the Public Resources Code is~~  
19 ~~amended to read:~~

20 ~~40181. “Regional agency” or “regional planning agency” means~~  
21 ~~an agency formed pursuant to Chapter 5 (commencing with Section~~  
22 ~~6500) of Division 7 of Title 1 of the Government Code and Article~~  
23 ~~3 (commencing with Section 40970) of Chapter 1 of Part 2.~~

24 ~~SEC. 5.~~

25 SEC. 4. Section 40183 of the Public Resources Code is  
26 amended to read:

27 40183. (a) “Rural city” or “rural regional agency” means a  
28 city or regional agency that is located within a rural county as  
29 defined in Section 40184.

30 (b) (1) Unless the board takes action pursuant to paragraph (2),  
31 this section does not affect any reduction granted to a rural city ~~or~~  
32 ~~rural county~~ by the board pursuant to Section 41787 prior to  
33 January 1, 2008.

34 (2) The board may review and take action regarding any  
35 reduction granted to a rural city ~~or rural county~~ by the board in  
36 accordance with subdivision (b) of Section 41787.

37 ~~SEC. 6.~~

38 SEC. 5. Section 40184 of the Public Resources Code is  
39 amended to read:

1 40184. (a) “Rural county” means a county or multicounty  
2 regional agency that annually disposes of no more than 200,000  
3 tons of solid waste.

4 (b) (1) Unless the board takes action pursuant to paragraph (2),  
5 this section does not affect any reduction granted to a rural city or  
6 rural county by the board pursuant to Section 41787 prior to  
7 January 1, 2008.

8 (2) The board may review and take action regarding any  
9 reduction granted to a rural county in accordance with subdivision  
10 (b) of Section 41787.

11 ~~SEC. 7.~~

12 *SEC. 6.* Section 41780 of the Public Resources Code is  
13 amended to read:

14 41780. (a) Each jurisdiction’s source reduction and recycling  
15 element shall include an implementation schedule that shows both  
16 of the following:

17 (1) For the initial element, the jurisdiction shall divert 25 percent  
18 of all solid waste by January 1, 1995, through source reduction,  
19 recycling, and composting activities.

20 (2) Except as provided in Sections 41783 and 41784, for the  
21 first and each subsequent revision of the element, the jurisdiction  
22 shall divert 50 percent of all solid waste on and after January 1,  
23 2000, through source reduction, recycling, and composting  
24 activities.

25 (b) This section does not prohibit a jurisdiction from  
26 implementing source reduction, recycling, and composting  
27 activities designed to exceed the requirements of this division.

28 ~~SEC. 8.~~

29 *SEC. 7.* Section 41780.05 is added to the Public Resources  
30 Code, to read:

31 41780.05. (a) On and after January 1, 2009, pursuant to the  
32 review authorized by Section 41825, the board shall determine  
33 each jurisdiction’s compliance with Section 41780 for the years  
34 commencing with January 1, 2007, by comparing each  
35 jurisdiction’s change in its per capita disposal rate in subsequent  
36 years with the equivalent per capita disposal rate that would have  
37 been necessary for the jurisdiction to meet the requirements of  
38 Section 41780 on January 1, 2007, as calculated pursuant to  
39 subdivisions (c) and (d).

(b) (1) For purposes of paragraph (5) of subdivision (e) of Section 41825, in making a determination whether a jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board may consider a jurisdiction's per capita disposal only as an indication of whether the jurisdiction has adequately implemented its diversion programs. ~~The board shall not consider an increase in the per capita disposal rate to be determinative as to whether the jurisdiction has made a good faith effort.~~ *board shall consider, but is not limited to the consideration of, the jurisdiction's per capita disposal rate and whether the jurisdiction adequately implemented its diversion programs.*

(2) When determining whether a jurisdiction has made a good faith effort pursuant to Section 41825 to implement its source reduction and recycling element or its household hazardous waste element, the board shall consider that an increase in the per capita disposal rate is the result of the amount of the jurisdiction's disposal increasing faster than the jurisdiction's growth. The board shall use this increase in the per capita disposal rate that is in excess of the equivalent per capita disposal rate as a factor in determining whether the board is required, pursuant to Section 41825, to more closely examine a jurisdiction's program implementation efforts. This examination may indicate that a jurisdiction is required to expand existing programs or implement new programs, in accordance with the procedures specified in Article 4 (commencing with Section 41825) and in Article 5 (commencing with Section 41850).

(3) When reviewing the level of program implementation pursuant to Sections 41825 and 41850, the board shall use, as a factor in determining compliance with Section 41780, the amount determined pursuant to subdivision (d) when comparing a jurisdiction's per capita disposal rate in subsequent years.

(c) (1) Except as otherwise provided in this subdivision, for purposes of this section, "per capita disposal" or "per capita disposal rate" means the total annual disposal, in pounds, from a jurisdiction divided by the total population in a jurisdiction, as reported by the Department of Finance, divided by 365 days.

(2) (A) If a jurisdiction is predominated by commercial or industrial activities and by solid waste generation from those

1 sources, the board may alternatively calculate per capita disposal  
2 to reflect those differing conditions.

3 (B) When making a calculation for a jurisdiction subject to this  
4 paragraph, “per capita disposal” or “per capita disposal rate” means  
5 the total annual disposal, in pounds, from a jurisdiction divided  
6 by total industry employment in a jurisdiction, as reported by the  
7 Employment Development Department, divided by 365 days.

8 (C) The board shall calculate the per capita disposal rate for a  
9 jurisdiction subject to this paragraph using the level of industry  
10 employment in a jurisdiction instead of the level of population in  
11 a jurisdiction.

12 (3) If the board determines that the method for calculating the  
13 per capita disposal rate for a jurisdiction provided by paragraph  
14 (1) or (2) does not accurately reflect that jurisdiction’s disposal  
15 reduction, the board may use an alternative method of calculating  
16 the per capita disposal rate that more accurately reflects the  
17 jurisdiction’s efforts to divert solid waste.

18 (d) The board shall calculate the equivalent per capita disposal  
19 rate for each jurisdiction as follows:

20 (1) Except as otherwise provided in this subdivision, the  
21 equivalent per capita disposal rate for a jurisdiction shall be  
22 determined using the method specified in this paragraph.

23 (A) The calculated generation tonnage for each year from 2003  
24 to 2006, inclusive, shall be multiplied by 0.5 to yield the 50 percent  
25 equivalent disposal total for each year.

26 (B) The 50 percent equivalent disposal total for each year shall  
27 be multiplied by 2,000, divided by the population of the jurisdiction  
28 in that year, and then divided by 365 to yield the 50 percent  
29 equivalent per capita disposal for each year.

30 (C) The four 50 percent equivalent per capita disposal amounts  
31 from the years 2003 to 2006, inclusive, shall be averaged to yield  
32 the equivalent per capita disposal rate.

33 (2) If a jurisdiction is predominated by commercial or industrial  
34 activities and by solid waste generation from those sources, the  
35 board may alternatively calculate the equivalent per capita disposal  
36 rate to reflect those conditions by using the level of industry  
37 employment in a jurisdiction instead of the level of population in  
38 that jurisdiction.

39 (3) If the board determines that the method for collecting the  
40 equivalent per capita disposal rate for a jurisdiction pursuant to

1 this subdivision does not accurately reflect a jurisdiction's per  
2 capita disposal rate that would be equivalent to the amount required  
3 to meet the 50 percent diversion requirements of Section 41780,  
4 the board may use an alternative method for calculating the  
5 equivalent per capita disposal rate that more accurately reflects  
6 the jurisdiction's diversion efforts.

7 (4) The board shall modify the percentage used in paragraph  
8 (1) to maintain the diversion requirements approved by the board  
9 for a rural jurisdiction pursuant to Section 41787.

10 (5) The board may modify the years included in making a  
11 calculation pursuant to this subdivision for an individual  
12 jurisdiction to eliminate years in which the calculated generation  
13 amount is shown not to be representative or accurate, based upon  
14 a generation study completed in one of the four years 2003 to 2006,  
15 inclusive. In these cases, the board shall not allow the use of an  
16 additional year other than 2003, 2004, 2005, or 2006.

17 (6) The board may modify the method of calculating the  
18 equivalent per capita disposal rate for an individual jurisdiction to  
19 accommodate the incorporation of a new city, the formation of a  
20 new regional agency, or changes in membership of an existing  
21 regional agency. These modifications shall ensure that a new entity  
22 has a new equivalent per capita disposal rate and that the existing  
23 per capita disposal rate of an existing entity is adjusted to take into  
24 account the disposal amounts lost by the creation of the new entity.

25 (7) The board shall not incorporate generation studies or new  
26 base year calculation for a year commencing after 2006 into the  
27 equivalent per capita disposal rate.

28 (8) If the board determines that the equivalent per capita disposal  
29 rate cannot accurately be determined for a jurisdiction, or that the  
30 rate is no longer representative of a jurisdiction's waste stream,  
31 the board shall evaluate trends in the jurisdiction's per capita  
32 disposal to establish a revised equivalent per capita disposal rate  
33 for that jurisdiction.

34 ~~SEC. 9.~~

35 *SEC. 8.* Section 41783 of the Public Resources Code is  
36 amended to read:

37 41783. (a) For a jurisdiction's source reduction and recycling  
38 element submitted to the board after January 1, 1995, and on or  
39 before January 1, 2009, the 50 percent diversion requirement  
40 specified in paragraph (2) of subdivision (a) of Section 41780 may



1 include not more than 10 percent through transformation, as defined  
2 in Section 40201, if all of the following conditions are met:

3 (1) The transformation project is in compliance with Sections  
4 21151.1 and 44150 of this code and Section 42315 of the Health  
5 and Safety Code.

6 (2) The transformation project uses front-end methods or  
7 programs to remove all recyclable materials from the waste stream  
8 prior to transformation to the maximum extent feasible.

9 (3) The ash or other residue generated from the transformation  
10 project is routinely tested at least once quarterly, or on a more  
11 frequent basis as determined by the agency responsible for  
12 regulating the testing and disposal of the ash or residue, and,  
13 notwithstanding Section 25143.5 of the Health and Safety Code,  
14 if hazardous wastes are present, the ash or residue is sent to a class  
15 1 hazardous waste disposal facility.

16 (4) The board holds a public hearing in the city, county, or  
17 regional agency jurisdiction within which the transformation  
18 project is proposed, and, after the public hearing, the board makes  
19 both of the following findings, based upon substantial evidence  
20 on the record:

21 (A) The city, county, or regional agency is, and will continue  
22 to be, effectively implementing all feasible source reduction,  
23 recycling, and composting measures.

24 (B) The transformation project will not adversely affect public  
25 health and safety or the environment.

26 (5) The transformation facility is permitted and operational on  
27 or before January 1, 1995.

28 (6) The city, county, or regional agency does not include  
29 biomass conversion, as authorized pursuant to Section 41783, in  
30 its source reduction and recycling element.

31 (b) On and after January 1, 2009, for purposes of the review  
32 authorized by Section 41825, with regard to a jurisdiction's  
33 compliance with Section 41780 for each year commencing January  
34 1, 2007, the board may reduce the per capita disposal rate for a  
35 jurisdiction, as calculated pursuant to subdivision (d) of Section  
36 41780.05, by no more than 10 percent of the average of the  
37 calculated per capita generation tonnage amount that is subject to  
38 transformation pursuant to this section.

1     ~~SEC. 10.~~

2     *SEC. 9.* Section 41820.6 of the Public Resources Code is  
3 amended to read:

4     41820.6. (a) In addition to its authority under Section 41820,  
5 the board may, after a public hearing, grant a time extension from  
6 the requirements of Section 41780 to a city if both of the following  
7 conditions exist:

8     (1) The city was incorporated pursuant to Division 3  
9 (commencing with Section 56000) of Title 5 of the Government  
10 Code on or after January 1, 2001.

11     (2) The county within which the city is located did not include  
12 provisions in its franchises that ensured that the now incorporated  
13 area would comply with the requirements of Section 41780.

14     (b) The board may authorize a city that meets the requirements  
15 of subdivision (a) to submit a source reduction and recycling  
16 element that includes an implementation schedule that shows that  
17 the city shall comply with the requirements of Section 41780,  
18 within three years from the date on which the source reduction  
19 and recycling element is due pursuant to subdivision (b) of Section  
20 41791.5, through source reduction, recycling, and composting  
21 activities.

22     ~~SEC. 11.~~

23     *SEC. 10.* Section 41821 of the Public Resources Code is  
24 amended to read:

25     41821. (a) (1) Each year following the board's approval of a  
26 jurisdiction's source reduction and recycling element, household  
27 hazardous waste element, and nondisposal facility element, the  
28 jurisdiction shall submit a report to the board summarizing its  
29 progress in reducing solid waste as required by Section 41780, in  
30 accordance with the schedule set forth in this subdivision.

31     (2) The annual report shall be due on or before August 1 of the  
32 year following board approval of the source reduction and recycling  
33 element, the household hazardous waste element, and the  
34 nondisposal facility element, and on or before August 1 in each  
35 subsequent year. The information in this report shall encompass  
36 the previous calendar year, January 1 to December 31, inclusive.

37     (b) Each jurisdiction's annual report to the board shall, at a  
38 minimum, include the following:

39     (1) Calculations of annual disposal reduction.

1 (2) A summary of progress made in implementing the source  
2 reduction and recycling element and the household hazardous  
3 waste element.

4 (3) An update of the jurisdiction's source reduction and  
5 recycling element and household hazardous waste element to  
6 include any new or expanded programs the jurisdiction has  
7 implemented or plans to implement.

8 (4) An update of the jurisdiction's nondisposal facility element  
9 to reflect any new or expanded nondisposal facilities the  
10 jurisdiction is using or planning to use.

11 (5) A summary of progress made in diversion of construction  
12 and demolition of waste material, including information on  
13 programs and ordinances implemented by the local government  
14 and quantitative data, where available.

15  
16 (6) Other information relevant to compliance with Section  
17 41780.

18 (c) A jurisdiction may also include, in the report required by  
19 this section, all of the following:

20 (1) Information on disposal reported pursuant to Section 41821.5  
21 that the jurisdiction believes may be relevant to the board's  
22 determination of the jurisdiction's per capita disposal rate.

23 (2) Disposal characterization studies or other completed studies  
24 that show the effectiveness of the programs being implemented.

25 (3) Factors that the jurisdiction believes would affect the  
26 accuracy of, or mitigate the amount of, solid waste disposed by  
27 the jurisdiction, including, but not limited to, either of the  
28 following:

29 (A) Whether the jurisdiction hosts a solid waste facility or  
30 regional diversion facility.

31 (B) The effects of self-hauled waste and construction and  
32 demolition waste.

33 (4) The extent to which the jurisdiction previously relied on  
34 biomass diversion credit and the extent to which it may be impacted  
35 by the lack of the credit.

36 (5) Information regarding the programs the jurisdiction is  
37 undertaking to address specific disposal challenges, and why it is  
38 not feasible to implement programs to respond to other factors that  
39 affect the amount of waste that is disposed.

(6) Other information that describes the good faith efforts of the jurisdiction to comply with Section 41780.

(d) The board shall use, but is not limited to the use of, the annual report in the determination of whether the jurisdiction's source reduction and recycling element needs to be revised or updated.

(e) (1) The board shall adopt procedures for requiring additional information in a jurisdiction's annual report. The procedures shall require the board to notify a jurisdiction of any additional required information no later than 120 days after the board receives the report from the jurisdiction.

(2) Paragraph (1) does not prohibit the board from making additional requests for information in a timely manner. A jurisdiction receiving a request for information shall respond in a timely manner.

(3) If the schedule for the submission of an annual report by a jurisdiction does not correspond with the scheduled review by the board specified in subdivision (a) of Section 41825, the board shall utilize the information contained in the annual report only to assist the board in providing technical assistance and informally reviewing the jurisdiction's diversion program implementation. The board is not required to otherwise review the annual report for those years that are in addition to the review required by subdivision (a) of Section 41825.

(f) The board shall adopt procedures for conferring with a jurisdiction regarding the implementation of its diversion programs.

(g) Notwithstanding the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code), a jurisdiction shall submit the progress report required by this section to the board electronically, using the board's electronic reporting format system.

(h) Notwithstanding the reporting schedule required by this section, and in addition to the review required by Section 41825, the board shall visit each jurisdiction not less than once each year to monitor the ~~jurisdictions's~~ *jurisdiction's* implementation and maintenance of its diversion programs.

~~SEC. 12.~~

*SEC. 11.* The heading of Article 4 (commencing with Section 41825) of Chapter 7 of Part 2 of Division 30 of the Public Resources Code is amended to read:

Article 4. Review and Compliance Orders

~~SEC. 13.~~

~~SEC. 12.~~ Section 41825 of the Public Resources Code is repealed.

~~SEC. 14.~~

~~SEC. 13.~~ Section 41825 is added to the Public Resources Code, to read:

41825. (a) The board shall make a finding whether each jurisdiction was in compliance with Section 41780 for calendar year 2006 and shall review a jurisdiction's compliance with Section 41780 in accordance with the following schedule:

(1) If the board makes a finding that the jurisdiction was in compliance with Section 41780 for calendar year 2006, the board shall review, commencing January 1, 2012, and at least once every four years thereafter, whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

(2) If the board makes a finding that the jurisdiction did not meet the requirements of Section 41780 for calendar year 2006 or for any other subsequent calendar year, but made a good faith effort to implement its source reduction and recycling element and household hazardous waste element, the board shall review, commencing January 1, 2010, and at least once every two years thereafter, whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

(3) If the board makes a finding that the jurisdiction was not in compliance with Section 41780 for calendar year 2006 or for any subsequent calendar year, the board shall review, commencing January 1, 2010, and at least once every two years thereafter, whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

(4) If, after determining that a jurisdiction is not in compliance with Section 41780 and is subject to paragraph (2) or (3), the board subsequently determines that the jurisdiction has come into compliance with Section 41780, the board shall review, at least once every four years, whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element

1 and household hazardous waste in the same manner as a jurisdiction  
2 that is subject to paragraph (1).

3 (b) In addition to the requirements of subdivision (a), the board  
4 may review whether a jurisdiction is in compliance with Section  
5 41780 in accordance with the requirements of this section at any  
6 time that the board receives information that indicates the  
7 jurisdiction may not be making a good faith effort to implement  
8 its source reduction and recycling element and household hazardous  
9 waste element.

10 (c) (1) Before issuing a compliance order pursuant to  
11 subdivision (d), the board shall confer with the jurisdiction  
12 regarding conditions relating to the proposed order of compliance,  
13 with a first meeting occurring not less than 60 days before issuing  
14 a notice of intent to issue an order of compliance.

15 (2) The board shall issue a notice of intent to issue an order of  
16 compliance not less than 30 days before the board holds a hearing  
17 to issue the notice of compliance. The notice of intent shall specify  
18 all of the following:

19 (A) The proposed basis for issuing an order of compliance.

20 (B) The proposed actions the board recommends are necessary  
21 for the jurisdiction to complete to implement its source reduction  
22 and recycling element or household hazardous waste element.

23 (C) The proposed recommendations to the board.

24 (3) The board shall consider any information provided pursuant  
25 to subdivision (c) of Section 41821 if the proposed issuance of an  
26 order of compliance involves changes to a jurisdiction's calculation  
27 of annual disposal.

28 (d) (1) If, after holding a public hearing, which, to the extent  
29 possible, shall be held in the local or regional agency's jurisdiction,  
30 the board finds that a jurisdiction has failed to make a good faith  
31 effort to implement its source reduction and recycling element or  
32 its household hazardous waste element, the board shall issue an  
33 order of compliance with a specific schedule for achieving  
34 compliance.

35 (2) The compliance order shall include those conditions that the  
36 board determines to be necessary for the jurisdiction to implement  
37 its diversion programs.

38 (3) In addition to considering the good faith efforts of a  
39 jurisdiction, as specified in subdivision (e), to implement a

1 diversion program, the board shall consider all of the following  
2 factors in determining whether or not to issue a compliance order:

3 (A) The rural nature of the jurisdiction.

4 (B) Whether an exceptional growth rate may have affected  
5 compliance.

6 (C) Other information that the jurisdiction may provide that  
7 indicates the effectiveness of the jurisdiction's programs, such as  
8 disposal characterization studies or other jurisdiction specific  
9 information.

10 (e) For purposes of making a determination pursuant to this  
11 section whether a jurisdiction has failed to make a good faith effort  
12 to implement its source reduction and recycling element or its  
13 household hazardous waste element, the board shall consider all  
14 of the following criteria:

15 (1) For the purposes of this section, "good faith effort" means  
16 all reasonable and feasible efforts by a jurisdiction to implement  
17 those programs or activities identified in its source reduction and  
18 recycling element or household hazardous waste element, or  
19 alternative programs or activities that achieve the same or similar  
20 results.

21 (2) For purposes of this section, "good faith effort" may also  
22 include the evaluation by a jurisdiction of improved technology  
23 for the handling and management of solid waste that would reduce  
24 costs, improve efficiency in the collection, processing, or marketing  
25 of recyclable materials or yard waste, and enhance the ability of  
26 the jurisdiction to adequately address all sources of significant  
27 disposal, the submission by the jurisdiction of a compliance  
28 schedule, and the undertakers of all other reasonable and feasible  
29 efforts to implement the programs identified in the jurisdiction's  
30 source reduction and recycling element or household hazardous  
31 waste element.

32 (3) In determining whether a jurisdiction has made a good faith  
33 effort, the board shall consider the enforcement criteria included  
34 in its enforcement policy, as adopted on April 25, 1995, or as  
35 subsequently amended.

36 (4) The board shall consider all of the following when  
37 considering whether a jurisdiction has made a good faith effort to  
38 implement its source reduction and recycling element or its  
39 household hazardous waste element:

40 (A) Natural disasters.

1 (B) Budgetary conditions within a jurisdiction that could not  
2 be remedied by the imposition or adjustment of solid waste fees.

3 (C) Work stoppages that directly prevent a jurisdiction from  
4 implementing its source reduction and recycling element or  
5 household hazardous waste element.

6 (D) The impact of the failure of federal, state, and other local  
7 agencies located within the jurisdiction to implement source  
8 reduction and recycling programs in the jurisdiction.

9 (E) The extent to which the jurisdiction has implemented  
10 additional source reduction, recycling, and composting activities.

11 (F) The extent to which the jurisdiction has made program  
12 implementation choices driven by considerations related to other  
13 environmental issues, including climate change.

14 (G) Whether the jurisdiction has provided information to the  
15 board concerning whether construction and demolition waste  
16 material is at least a moderately significant portion of the waste  
17 stream, and, if so, whether the local jurisdiction has adopted an  
18 ordinance for diversion of construction and demolition waste  
19 materials from solid waste disposal facilities, has adopted a model  
20 ordinance pursuant to subdivision (a) of Section 42912 for  
21 diversion of construction and demolition waste materials from  
22 solid waste disposal facilities, or has implemented another program  
23 to encourage or require diversion of construction and demolition  
24 waste materials from solid waste disposal facilities.

25 (H) The extent to which the jurisdiction has implemented  
26 programs to comply with Section 41780 and to maintain its per  
27 capita disposal rate.

28 (5) In making a determination whether a jurisdiction has made  
29 a good faith effort, pursuant to this section, the board may consider  
30 a jurisdiction's per capita disposal rate as a factor in determining  
31 whether the jurisdiction adequately implemented its diversion  
32 programs. The board shall not consider a jurisdiction's per capita  
33 disposal rate to be determinative as to whether the jurisdiction has  
34 made a good faith effort to implement its source reduction and  
35 recycling element or its household hazardous waste element.

36 ~~SEC. 15.~~

37 *SEC. 14.* The heading of Article 5 (commencing with Section  
38 41850) of Chapter 7 of Part 2 of Division 30 of the Public  
39 Resources Code is amended to read:



Article 5. Enforcement and Penalties

~~SEC. 16. Section 41850 of the Public Resources Code is amended to read:~~

~~41850. (a) Except as specifically provided in Section 41813, if, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the board finds that the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board may impose administrative civil penalties upon the city or county or, pursuant to Section 40974, upon the city or county as a member of a regional agency, of up to ten thousand dollars (\$10,000) per day until the jurisdiction implements the element.~~

~~(b) In determining whether or not to impose any penalties, or in determining the amount of any penalties imposed under this section, including any penalties imposed due to the exclusion of solid waste pursuant to Section 41781.2 that results in a reduction in the quantity of solid waste diverted by a jurisdiction, the board shall consider whether the city, county, or regional agency jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element. In addition, the board shall consider only those relevant circumstances that have prevented a jurisdiction from meeting the requirements of this division, including, but not limited to, the factors described in subdivisions (d) and (e) of Section 41825.~~

~~SEC. 15. Section 41850 of the Public Resources Code is amended to read:~~

~~41850. (a) Except as specifically provided in Section 41813, if, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the board finds that the city, county, or regional agency jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board may impose administrative civil penalties upon the city or county or, pursuant to Section 40974, upon the city or county as a member of a regional agency, of up to ten thousand dollars (\$10,000) per day until the city, county, or regional agency jurisdiction implements the element.~~

(b) In determining whether or not to impose any penalties, or in determining the amount of any penalties imposed under this section, including any penalties imposed due to the exclusion of solid waste pursuant to Section 41781.2 that results in a reduction in the quantity of solid waste diverted by a city, county, or regional agency jurisdiction, the board shall consider whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element. In addition, the board shall consider only those relevant circumstances that have prevented a city, county, or regional agency jurisdiction from meeting the requirements of this division, including the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, including, but not limited to, all of the following: *the factors described in subdivisions (d) and (e) of Section 41825.*

(1) ~~Natural disasters.~~

(2) ~~Budgetary conditions within a city, county, or regional agency that could not be remedied by the imposition or adjustment of solid waste fees.~~

(3) ~~Work stoppages that directly prevent a city, county, or regional agency from implementing its source reduction and recycling element or household hazardous waste element.~~

(4) ~~The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction on the host jurisdiction's ability to meet the requirements of paragraph (2) of subdivision (a) of Section 41780.~~

(e) ~~In addition to the factors specified in subdivision (b), the board shall consider all of the following:~~

(1) ~~The extent to which a city, county, or regional agency has implemented additional source reduction, recycling, and composting activities to comply with the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780.~~

(2) ~~The extent to which a city, county, or regional agency is meeting the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780.~~

(3) ~~Whether the jurisdiction has requested and been granted an extension to the requirements of Section 41780, pursuant to Section 41820, or an alternative requirement to Section 41780, pursuant to Section 41785.~~

~~(4) Whether a local jurisdiction has provided information to the board concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.~~

~~(d) (1) For the purposes of this section, “good faith effort” means all reasonable and feasible efforts by a city, county, or regional agency to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.~~

~~(2) For purposes of this section “good faith effort” may also include the evaluation by a city, county, or regional agency of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the city, county, or regional agency to meet the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, provided that the city, county, or regional agency has submitted a compliance schedule pursuant to Section 41825, and has made all other reasonable and feasible efforts to implement the programs identified in its source reduction and recycling element or household hazardous waste element.~~

~~(3) In determining whether a jurisdiction has made a good faith effort, the board shall consider the enforcement criteria included in its enforcement policy, as adopted on April 25, 1995, or as subsequently amended.~~

~~SEC. 17.~~

~~SEC. 16.~~ Section 42921 of the Public Resources Code is amended to read:

42921. (a) Each state agency and each large state facility shall divert at least 25 percent of all solid waste generated by the state agency by January 1, 2002, through source reduction, recycling, and composting activities.

(b) On and after January 1, 2004, each state agency and each large state facility shall divert at least 50 percent of all solid waste through source reduction, recycling, and composting activities.

~~SEC. 18.~~

*SEC. 17.* Section 42921.5 is added to the Public Resources Code, to read:

42921.5. (a) On and after January 1, 2009, the board shall determine each state agency's or a large state facility's compliance with Section 42921, for each year commencing with January 1, 2007, by comparing the per capita disposal rate in subsequent years with the equivalent per capita disposal rate that would have been necessary for the state agency or large state facility to comply with Section 42921 on January 1, 2007, as calculated pursuant to subdivision (d).

(b) In making a determination whether a state agency or large state facility is in compliance with the requirements of Section 42921, the board may consider an agency's or facility's per capita disposal rate as a factor in determining whether the state agency or large state facility is adequately implementing its integrated waste management plan. The board shall not consider a state, agency, or large state facility's per capita disposal rate to be determinative when considering whether the agency's or facility is implementing its integrated waste management plan.

(c) When determining whether an agency or facility is in compliance with Section 42921, the board shall consider that an increase in the per capita disposal rate is a result of disposal amounts increasing faster than the growth of the state agency or large state facility. The board shall use an increase in the per capita disposal rate that is in excess of the equivalent per capita disposal rate as a factor in determining whether the board is required to more closely examine the agency's or facility's plan implementation efforts. If indicated by this examination, the board may require a state agency or large state facility to expand existing programs or implement new programs.

(d) (1) Except as provided in paragraph (2), "per capita disposal" or "per capita disposal rate" means the total annual disposal by a state agency or large state facility, in pounds, divided by total number of employees in that state agency or large state facility, and divided by 365 days.

(2) The board may alternatively define per capita disposal or per capita disposal rate for a state agency or large state facility that has a significant amount of disposal from nonemployees or for other reasons that would make calculation of per capita disposal by the number of employees inaccurate.

~~SEC. 19.~~

*SEC. 18.* Section 42926 of the Public Resources Code is amended to read:

42926. (a) In addition to the information provided to the board pursuant to Section 12167.1 of the Public Contract Code, each state agency shall submit an annual report to the board summarizing its progress in reducing solid waste as required by Section 42921. The annual report shall be due on or before September 1, 2009, and on or before September 1 in each subsequent year. The information in this report shall encompass the previous calendar year.

(b) Each state agency's annual report to the board shall, at a minimum, include all of the following:

(1) Calculations of annual disposal reduction.

(2) Information on the changes in waste generated or disposed of due to increases or decreases in employees, economics, or other factors.

(3) A summary of progress made in implementing the integrated waste management plan.

(4) The extent to which the state agency intends to utilize programs or facilities established by the local agency for the handling, diversion, and disposal of solid waste. If the state agency does not intend to utilize those established programs or facilities, the state agency shall identify sufficient disposal capacity for solid waste that is not source reduced, recycled, or composted.

(5) Other information relevant to compliance with Section 42921.

(c) The board shall use, but is not limited to the use of, the annual report in the determination of whether the agency's integrated waste management plan needs to be revised.

~~SEC. 20.~~

*SEC. 19.* Section 42927 is added to the Public Resources Code, to read:

42927. (a) Notwithstanding Section 12167 of the Public Contract Code, a community college district shall expend the

1 revenues derived from the sale of recyclable materials for the  
2 purposes of offsetting the recycling program costs imposed  
3 pursuant to this chapter.

4 (b) A community college district shall expend all cost savings  
5 that result from implementation of the district's integrated waste  
6 management plan pursuant to this chapter to fund the continued  
7 implementation of the plan.

8 (c) A community college district shall expend the revenues and  
9 cost savings specified in subdivisions (a) and (b) to offset recycling  
10 program costs incurred pursuant to this chapter from the initial  
11 date when the community college district became subject to this  
12 chapter.

13 (d) A community college district shall provide information on  
14 the quantities of recyclable materials collected for recycling at  
15 least annually to the board, according to a schedule determined by  
16 the board and the district.

17 ~~SEC. 21.~~

18 *SEC. 20.* No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 a local agency or school district has the authority to levy service  
21 charges, fees, or assessments sufficient to pay for the program or  
22 level of service mandated by this act or because the act provides  
23 for offsetting savings to local agencies or school districts that result  
24 in no net costs to the local agencies or school districts, within the  
25 meaning of Section 17556 of the Government Code.